

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JAMES T. SULLIVAN, not individually but as Trustee of )	)	
PLUMBERS' PENSION FUND, LOCAL 130, U.A., )	)	
etc., et al. )	)	No. 10 C 2793
Plaintiffs, )	)	
v. )	)	Judge Robert M. Dow, Jr.
	)	
ASPEN PLUMBING COMPANY, INC., )	)	Magistrate Judge Sidney I. Schenkier
	)	
Defendant. )	)	

PLAINTIFFS' MOTION FOR JUDGMENT

Plaintiffs, James T. Sullivan, not individually, but as Trustee of Plumbers' Pension Fund, Local 130, U.A., etc., et al. ("Funds"), by their attorneys, John W. Loseman, Douglas A. Lindsay, and Brian T. Bedinghaus, with LEWIS, OVERBECK & FURMAN, LLP of counsel, move the Court to enter Judgment in favor of Funds and against Defendant, Aspen Plumbing Company, Inc. In support hereof, Funds state:

1. Funds brought this action, *inter alia*, to obtain an audit verifying Defendant's compliance with its obligations to Funds under a collective bargaining agreement, ERISA, 29 U.S.C. §§1132 and 1145, and LMRA, 29 U.S.C. §185, and to recover all amounts due to Funds. *Complaint, Doc. 1.*

2. By order dated July 29, 2010, the Court ordered Defendant to produce its books and records to Funds' auditor for compliance audit covering the period from January 1, 2007. *Order, Doc. 11.*

3. Counsel for Defendant appeared on September 15, 2010. *Appearance, Doc. 17.*

4. The certified public accounting firm of Legacy Professionals LLP, conducted the compliance audit of Defendant's books and records. Upon completing the audit, Legacy issued

its Report of Audit Changes (“Audit Report”) dated November 12, 2010. The Audit Report revealed that Defendant owes certain amounts to Funds.

5. On January 21, 2011, Funds filed their First Amended Complaint including the Audit Report as Exhibit B thereto. *First Amended Complaint, Doc. 24.*

6. By order dated February 16, 2011, the Court ordered Defendant to answer or otherwise plead to First Amended Complaint by March 9, 2011. *Order, Doc. 26.*

7. As of the date of filing of this Motion, Defendant has not answered or otherwise responded to the Amended Complaint.

8. Defendant is in default.

9. Defendant owes the following:

Audit delinquency per Audit Report attached as Exhibit B to First Amended Complaint, per Collective Bargaining Agreement and ERISA, 29 U.S.C. §1132(g)(2)(A) and (B) and LMRA, 29 U.S.C. §185	\$23,481.76
Additional interest for period 12/1/10 through 7/07/11 at \$215.59/mo. as set forth in Audit Report per Collective Bargaining Agreement, 29 U.S.C. §1132(g)(2)(B), and 29 U.S.C. §185	1,724.72
ERISA double interest through 7/07/11 including accrued interest of \$7,959.03 as set forth in Audit Report and additional interest of \$1,724.72 as set forth above per 29 U.S.C. §1132(g)(2)(C)	9,683.75
Funds’ attorneys’ fees and costs through 6/30/11 as set forth in Affidavit of John W. Loseman attached as Exhibit One per Collective Bargaining Agreement, 29 U.S.C. §1132(g)(2)(D), and 29 U.S.C. §185	18,567.21

Funds' audit costs as set forth in Affidavit of James Kemperas  
attached as Exhibit Two per Collective Bargaining Agreement,  
29 U.S.C. §1132(g)(2)(E), and 29 U.S.C. §185

5,183.00

Total due:

\$58,640.44

WHEREFORE, Plaintiffs, James T. Sullivan, not individually but as a Trustee of Plumbers' Pension Fund, Local 130, U.A., Plumbers' Welfare Fund, Local 130, U.A., The Trust Fund for Apprentice and Journeymen Education and Training, Local 130, U.A., and Chicago Journeymen Plumbers' Local Union 130, U.A., Group Legal Services Plan Fund; The Plumbing Council of Chicagoland; and Chicago Journeymen Plumbers' Local Union 130, U.A., request that the Court enter judgment in favor of Plaintiffs and against Defendants, Aspen Plumbing Company, Inc., in the amount of \$58,640.44.

James T. Sullivan, not individually but as a  
Trustee of Plumbers' Pension Fund, Local 130,  
U.A., etc., et al., by their attorneys, John W.  
Loseman, Douglas A. Lindsay, and Brian T.  
Bedinghaus

By: /s/ John W. Loseman

John W. Loseman  
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Chicago, IL 60602-5093  
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Of Counsel:

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CERTIFICATE OF SERVICE

John W. Loseman, an attorney, certifies that he caused a copy of the foregoing Plaintiffs' Motion for Judgment to be served on the following person(s):

R. Mark Maritote, Esq.  
107 Third Street  
Bloomington, IL 60108

by causing a true and correct copy thereof to be sealed in an envelope addressed as aforesaid, with proper First Class postage prepaid, and deposited with the U.S. Postal Service at 20 N. Clark Street, Chicago, IL, this 1<sup>st</sup> day of July, 2011.

/s/ John W. Loseman